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## THE BULLETIN

PUBLISHED EVERY THURSDAY BY

ROSS & ROSSER,

Editors and Proprietors.

MAYSVILLE,

SPEECH OF HON. LAZARUS W. POWELL, OF KENTUCKY,

On the Right of the President to Sascember 9th, 1862.

The following resolution offered by Mr. Saulsbury of Delaware being under consider-

"Resolved, That the Secretary of War be, and he is hereby, directed to inform the Senate whether Dr. John Laus and Whiteley Meredith, or either of them, citizens of the State of Delaware, have been arrested and imprisoned in Fort Delaware; when they were arrested and so imprisoned; the charges against them; by whom made; by whose orders they were arrested and imprisoned; and that he communicate to the Senate all papers relating to their arrest and imprison-

Mr. Powell. I desire to state briefly to [Mr. Sherman,] met my most hearty approval; but the position taken by him, and by the Senatori from New Jersey, [Mr. Field,]

Catinet ministers have a right to make arguing to make arguing the senator from the doctrine new to me. Both of those Senators have indicated in the remarks which they have made, that if the writ of habeas corpus be authoritatively suspended, the made an argument before the Senate heretofore, somewhat elaborate, in which I undertook to prove that Congress alone could
suspend the writ of habeas corpus.

In some class of cases the shield to protect them in their libthe innocent go free, and that the guilty be
probable cause. He is entitled to a speedy
trial in the district where he has committed
to fine offense; and our Constitution says that
the guilty everywhere to be punished. If a
guilt or innocence may be inquired into.—
What will be the result, Mr. President, if
no citizen shall be deprived of his life, lisuspend the writ of habeas corpus.

I am of berty, or property without due process of

ment, would authorize the resident to sus-pend the writ of hobeas corpus. He has un-is concerned, the executive department of dertaken to suspend it, and there are many, the Government has put the Constitution dertaken to suspend it, and there are many, the Government has put the Constitution of this usurped power; let me tell you the such as the humblest citizen, may violate them of the object of the writ of habeas corpus.— with impunity, what will be the moral ef-the party to some extent in a state matter as much bound by the Constitution and laws may take until you convince yourselves that the people will sustain you in the exercise of the object of the writ of habeas corpus.— the Government has put the Constitution of this usurped power; let me tell you the some extent in a state matter as much bound by the Constitution and laws may take until you convince yourselves that the definition has given as the humblest citizen, may violate them of the object of the writ of habeas corpus.— the Government has put the constitution of this usurped power; let me tell you the only object is to inquire some very learned, lawyers, who have mainunder its heals, has disregarded it, has detained that in him is lodged that power.—
prived citizens of their liberty without prowill do the same; and with what heart, with

with impunity, what will be the morat of the people is against it, they are
prived citizens of their liberty without prowill do the same; and with what heart, with Other lawyers, very eminent in this country, cess of law. It is unnecessaty for me to say what right would one of these high officials down, and it was one of the chief points brought to relieve a man charged with murlegislative power. This is the point to which I wish to invite the attention of the Senate. Taking it for granted that the writ of habeas which our fathers brought from their fathertained or not; and if he has been lawfully liberty without process of law.

President or any of his Cabinet ministers to Constitution. Until then I shall pronounce make these arrests; and whenever they ex- them usurpers and violators of the Constitution. make these arrests; and whenever they exthem usurpers and violators of the Constitution of the Constitution of will be satisfied with no plea of necessity,
glorious Constitution throws around us. Do
der those laws: but if he were a private citithe country. The Constitution defines what which has been the tyrant's plea the world not let us forget that Constitution in the day der those laws; but if he were a private citiare the duties of the various departments of this Government. The deties of the Executive are plainly marked out in the instrument. So it is with the legislative power; so it is with the judicial power. Upon each! and every one of these distinct bodies of magistracy are conferred separate and distinct powers which they can legitimately exercise; and whenever they go beyond the powers prescribed in the Constitution, they usurp an authority not giren to them by the law, and deserve and should receive the nonest censure of every loyal man in the inet ministers will not allow the laws to be Ma. Doolittle. In all cases of arrest

Constitution of the country. Now, sir, I ask Senators who claim that the President and his Cabinet ministers have exercised this power rightfully, to point me that authorizes those officials to arrest a citi-zen, a civilian. The President, as Commay have the right, by virtue of the laws passed to regulate the Army and Navy, to approbation of the Senator from Kentucky bave written to make arrests. That is the country to look sight to that passed to regulate the Army and Navy, to make arrests of persons employed in the land and naval service; but I ask Senators to show and naval service; but I ask Senators to show

ment of this Government.

to see that no such power ever could have dent and Cabinet, and the peers of Senators, been given by men so wise as our ancestors have been for months confined in prison, were to any Executive. They were men where they have been cruelly languishing refused to take the oaths. I do not censure who justly appreciated human liberty; they for no assigned cause, with no charges made those who took them. It is a matter of were devotees of civil liberty; they thought against them, and the prison doors opened, personal consideration entirely, about which that the civil power was superior to that of and they let free without a trial. The Senathe military; that the military was always tor calls that mercy. Mercy! to drag a man subordinate to the civil power; and that is from his family without charge, in violation the doctrine set forth in the Constitution; of the Constitution of the country put him the Senate the reasons why I shall vote for but that does not seem to please the radicals in one of your Bastiles, and keep him there that the suspension of the writ of habeas lawful seizures and arrests, to point me to My object, Mr. President, is not to screen ballot-box; the voice of an outraged and incorpus has anything to do with arrests, is a the provision of the Constitution or the law the guilty, but to protect the innocent. I jured people has gone up from Ohio, from President and his Cabinet ministers may then make arrests. In my indement, the other. Arrests can only be made in the make arrests. In my indement, the prison doors must be made in the make arrests. In my indement, the prison doors must be made in the make arrests. In my indement, the prison doors must be made in the make arrests. In my indement, the prison doors must be made in the make arrests. In my indement, the prison doors must be made in the make arrests. In my indement, the prison doors must be made in the make arrests. In my indement, the prison doors must be made in the make arrests. In my indement, the prison doors must be made in the make arrests. make arrests. In my judgmenf, the position is not twell taken. I will not be intrusted with absolute power, the limitations and extent to tion is not well taken. I will not enter your country. It is plain and explicit upon The law is the barrier between the innocent that the gallant, lion-hearted Democracy of the of legal process or not. into the controversy now, as to whether the that subject. No citizen can be properly and those who would trample upon our those States detire the guilty to escape punwrit of habeas corpus can be suspended by arrested and held except upon warrant and rights, and that should by all men be held ishment—no sir, no; but they demand that guilt or innocence are never tried on a habeas the Executive or not. Upon that point I probable cause. He is entitled to a speedy up as the shield to protect them in their lib- the innocent go free, and that the guilty be corpus. suspend the writ of habeas corpus. I am of berty, or properly without due process of that common still, and upon that branch of law. If you arrest a citizen without charge, ministers, and men high in authority, to fore the proper tribunals, the tribunals or the country with the Senator from the case I concur with the Senator from Ohio.

The Senator from Ohio indicated in his

The Senator from Ohio indicated in his or indicated in his

and, I believe, to the credit of the profession, here what "process of law" means. The seek to punish a cittzen for violating the made against the Administration is the late the much larger number, hold that it is a whole Senate, knows it. It has been judi- Constitution and laws of the country when canvass in the States to which I have recorpus is suspended by competent constitu- land. It was a right distinctly affirmed in country that will be most appalling and hu- him a question? tional suthority, then I hold that they have the Great Charter which the iron barons de-miliating. You may talk about the patriot. Mr. Powert. With a great deal of pleano right to make these arrests. The writ of manded of the pusillanimous John. The ism of the President and of his Cabinet min-

lodged in the prison, it is the duty of the I desire those who here advocate these argreat remedial writ. The suspension in that who do it are assailed or censured to have languishes in a dungeon. We would do people? wit confers no authority on any officer of Senators get up and talk about the rebellion. well if we were to give our days and nights Mr. Powers. If the individual in the this Government to make an arrest. The Point me to the law, point me to the correction of this evil until it be remthis Government to make an arrest. The Point me to the law, point me to the correction of this evil dutil to be the correction istinct things.

I hold that there is no authority vested by President and his Cabinet ministers have not boots it that by arms you maintain the territhe Constitution of the United States in the usurped powers not given to them by the torial integrity of the United States in the usurped powers not given to them by the

> thinks we had better dispose of this resolu- and the other, which is most assiduous, tion and take up his bill. I do not remem- against the Constitution of the country; to I had him arrested I would hand him over ber the provisions of that bill, but if it were both of which wars I am opposed, for I have instanter to civil authorities, to be tried and passed and made the law of the land, what ever thought that we could only settle our punished for the offense; but if there was no good would it do? Would it relieve any sectional difficulties and save this Union by law for the offense, I would, as an honest man from unlawful imprisonment? The peaceful means. Constitution and law secure to every man The Senator from Wisconsin yesterday were President I should have sworn that I the right to have his case investigated, the stated to the Senate that in his judgment, in would see the laws faithfully executed, and right to a speedy and impartial trial. The all cases where the parties would take the before God I would not perjure myself .difficulty is, that the Executive and his Caboath, they were permitted to go free.

me the law that authorizes him to make an arrest of a citizen not connected with either service. Why, sir, even suppose the positive of the country has provided what shall be done arrest. They were consequently, I suppose, arrest.

be utterly destroyed, because the persons ap- another that the representatives of a free

to these things. of battle. There are two wars going out one zen wholly unconnected with the army, and Mr. President, the Senator from Illinois against the territorial integrity of the Union, by this act had not connected himself with

tion of the Senator from New Jersey were true, that the President has a right to suspend the writ of haleas corpus, does it necestable arrests; the Constitution But I can say to the Senator from Wisconsin so long that it would take a speech to ansarily follow after that suspension, that he has provided how you shall make seizures that during the last session of Congress there has a right to arrest whom he pleases? If and arrests; and if the Executive will vio- were men confined in Fort Lafayette who were the President, (which is not a supso, I would not give a fig for the liberties of late the Constitution and the laws that are were ready and willing to take the oath and posable case in regard to so humble an inthis people. If it be so, any President who now on the statute-book, have we any reagive the bond required, and yet Mr. Seward dividual,) I would by no act violate the Conis wicked enough and abandoned enough to son to believe that he will respect and exekept them there for months after they were stitution and laws of my country. If I 4.00 6.00 8.00 10.00 20.00 30 do it, may, ad libitum, overthrew the liber5.00 7.50 10.00 12.50 25.00 35 ties of this country. The Senator contends 10.00 15.00 20.00 25.00 50 that the President has a wright to sus10.00 15.00 20.00 25.00 50 that the President has a right to arrest the will respect and exe10.00 10.00 12.50 15.00 35.00 50 ties of this country. The Senator contends that the President has a suthority to sus10.00 15.00 20.00 25.00 50.00 50 that the President has a right to great the will respect and exe10.00 15.00 25.00 50 to believe that he will respect and exe10.00 12.50 15.00 35.00 50 ties of this country. If 1
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10.00 12.50 15.00 15.00 15.00 1 he suspends the writ he has a right to arrest that he will respect a law because it is pass- me that he was willing to take the oath and behavior. I would have the law executed .whom he pleases, and imprison them during ed by this Congress, when he acts in viola- give the bond, and yet it was months before If there was no law to reach the case, and I the continuattion of the war. If the Prestion of the Constitution of his country and the prison doors were opened to that citizen. thought the man meditated very great indent were clothed with that power, I ask the the laws on the statute-book made in I have been informed, since the Senator jury, I think I should have a watch kept the Senator to tell me what would prevent him from seizing the Senators of the United States or the honorable gentlemen who occupy seats in the other end of this Capitol, if they were distasteful to him, and locking them up in Fort Warren or Fort La Fayetta. them up in Fort Warren or Fort La Fayette, or some other Bastile, and putting the key in his pocket, and keeping them in prison for twenty years, if the war should last so for the favorable was no other way to prevent it. long; and in that event, what would become them with such cases as this. Why, Mr. take an oath unknown to the Constitution state of facts that could not exist. of your legislative functions? They would President, if there is one thing more than and laws to procure his release? I should dislike confinement in a prison, I have no pointed, in accordance with the Constitution, people should be jealous about, and should doubt, as much as any man; but I say now pend the writ of Habeas Corpus and make Arbitrary arrests, delivered in the Senate of the United States, De- Suppose the President should think that it nterfered with his imperial powers for the men of Greece once said that that was the upon it as an implied and tacit admission of judges to sit upon the bench and administer best Government where an injury offered to the charge. I would stand forth boldly and it, in a time of war or rebellion, the habeas the laws. In that event, If the doctrine held the meanest and poorest citizen was an in- demand a trial under the laws of my coun- corpus may be suspended; and I ask the by the Senator from New Jersey is correct. sult to the State. It was a wise maxim.— try. Yes, sir, I would want my children he has power to seize all the members of the But, sir, these insults and injuries are offered and those who are to come after me to see judiciary and put them in prison, and thus not only to the poor and helpless, but they that I stood vindicated before the proper overthrow and destroy the judicial depart- have been offered to some of the most re- tribunals, the courts of my country. I would spectable and loyal citizens of the United do no act that by implication, direct or in-Mr. President, you need but state the case States. Men who are the peers of the President, would intimate that I acknowledged the offense of which I was charged. I admire the lofty spirit of those gentlemen who P refused to take the oaths. I do not censure those who took them. It is a matter of each man must judge for himself.

I sincerely desire the supremacy of the laws of my country to be maintained, and I hope, for the sake of the public liberties, that

it, if I thought he had infracted the laws, if

Mr. FESSENDEN. Mr. President, the Senator has answered several questions that I MR. POWELL. Well, sir, I suppose that did not put, but has not answered the questucky would remember the bill, he would would embrace all. It would certainly em. tion that I did put. My question was not know that it is a bill providing for that very brace all that I have heard anything about. whether he would without law arrest a man object. It is a bill to provide for the dis- I believe that from first to last five thousand that had committed a crime; but if, in a time charge of State prisoners and others, and to of my constituents have been imprisoned, of public danger, in a time of rebellion, revcourts to take bail or recognizance to secure military camps within the State, many of try was at stake, he were satisfied that an

Mr. Powell. Well. Mr. President, the

Mr. FESSENDEN. The Senator thinks it is

not a supposable case. Mr. COLLAMER. Will the Senator from

vides that when the public safety requires Senator whether that does not necessarily imply that people are to be imprisoned unlawfully after it is suspended?

Mr. Powell. Is that the entire question? Mr. Collames. That is the entire ques-

lawfully imprisoned while the habeas corpus understand that the habeas corpus being susis in force, when it is suspended may he not pended, supends it in relation to everything be imprisoned unlawfuily?

Mr. Powell. If the writ of habeas corpus is suspended, the party may be held in pri- man. It is only suspended in regard to son either lawfully or unlawfully. If he is in prison, having been put there lawfully or deal of the speech of the Senator from Ohio

[Mr. Sherman,] met my most hearty ap
rests; and whenever they do it they usure a giving him at the speech of the Senator from Ohio. I can tell

land a pallet of straw for with the Administration, will follow the administration to this day. Neither the President may suspend it by proclamation to the Administration, will follow the administration to the Administration to the Senator from Ohio. I can tell habeas corpus only denies him the great vice of the Senator from Ohio. I can tell habeas corpus only denies him the great vice of the Senator from Ohio. I can tell habeas corpus only denies him the great vice of the Senator from Ohio. I can tell habeas corpus only denies him the great vice of the Senator from Ohio. fore the court and the legality of his im- soned for other matters by other people and shall stop. They have decreed it at the prisonment inquired into by the court. That on various other subjects which have nothing is all it does.

Mr. Collamer. Does the gentleman wish

Mr. Collamer. No, sir; questions of which that suspension goes must be stated.

Mr. Collamer. They require a jury.

speech that this Congress, by giving some Instances since the civil war commenced, do moral effect upon the community? The him go free, That is all I ask, and that, I court, and upon them they may decide qualified approval to the action of the Pres- you not deprive a citizen of his liberty with- President swears to preserve, protect, and tell you, is the verdict of the people recentident, had authorized him to suspend this out process of law, and violate the plain pro- defend the Constitution; he swears to see ly rendered at the polls, and such verdicts prisoned. If from the facts in the record it that the laws are faithfully executed. If he, will continue to be recorded as long as these appears be is guilty, he is rightfully impriswrit of habeas corpus. From that position of the Constitution?

The Senator from Ohio, I dissent. There has been no action of Congress that, in my judgbeen no action of Congress that, in my judglaw these things have been done. There is

Magistrate of a mighty people, if he who is

Like the laws are faithfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he, will continue to be recorded as long as these oned; if innocent, he is wrongfully imprisoned; if innocent, he is wrongfully imprisoned; if innocent, he is rightfully imprisoned; if innocent, he is wrongfully imprisoned; if innocent, he is rightfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he, will continue to be recorded as long as these that the laws are faithfully executed. If he will continue to be recorded as long as these that the laws are faithfully executed. If he will continue to be recorded as long as the second ment, would authorize the President to susno law authorizing it. So far as that matter as much bound by the Constitution and laws may talk until you convince yourselves that

should ask such a question. We know that from unlawful confinement when they are it is not the function of a judge before whom | confined by no process whatever; and consehabeas corpus has nothing to do with the arhabeas corpus has nothing to do with the arleast of an individual. The whole scope thirty two sets of Parliament. Our fathers rest of an individual. The whole scope, thirty-two acts of Parliament. Our fathers but, sir, while they are daily violating the works and object of the write of helpers courses. The seconds of our Earlish of the write of helpers courses. verge, and object of the writ of habeas covpus appreciated the wise precepts of our English plain provisions of the Constitution and the little differently from the Senator upon this him. He can only be tried by a jury. The is to relieve a man, when arrested, from il- ancestors, and in order to secure our liberties, laws, they cannot, without a cheek that laws, they cannot laws a cheek that laws, they cannot laws a cheek that laws a cheek t legal imprisonment. The object is to open ingrafted it on our Constitution; but yet we should blush for shame, ask those over whom the head of the Government, and he were corpus, inquires into the cause of the arrest, should blush for shame, ask those over whom the head of the Government, and he were corpus are allowed for each the prison doors, and to bring him before the lend to bring him before the lend to be constitution utterly disregarded, and for the time being they administer the laws satisfied in his own mind that an individual, and if on all the facts that are developed in court, to inquire whether he is lawfully de- thousands of our citizens deprived of their to be faithful to them. They should look in a time like this, was about to commit a the record the presumptions are that he is persons, though they are not held by virtue to be faithful to them. They should look in a time like this, was about to commit a the record the presumptions are that he is persons, though they are not held by virtue to be faithful to them. They should look in a time like this, was about to commit a the record the presumptions are that he is lawfully like the configuration of any process. The writ can be issued to We are told that if we pass resolutions of exceedingly injurious to the Government itjudge before whom he is brought to remand rests, who approve them, to point me to the him to prison, and if it is a bailable case, to law that authorizes them. I wish no evanim to prison, and it is a called the process, but inquired allow him bail, and if he is illegally imprison. I do not wish the liberties and the sound, to let him go free. That is the only somed, to let him go free. That is the people to be cloven down and the process, but inquired the process to the process, but inquired the process to the process object of the writ of habeas corpus. It is a the Constitution overthrown, and when those been unlawfully deprived of his liberty and him by the strong hand for the safety of the he will allow me to do so. My question is templated by the law. The command of whether the legitimate suspension of the the writ is to bring the body of A B and the writ of habeas corpus, authorizes the Presi. cause of his confinement. That is the cum dent of the United States to arrest and imprison a man. I wish the Senator to answer that question, for that is the gistof the whole about, but the habeus corpus cum causa, and

Mr. COLLAMER .- To answea that question the gentleman will have to indulge me in some preliminary remarks.

Senate.

Mr. COLLAMER. Upon a writ of habeas corpus brought before a judge or court to relieve a man from an alleged unlawful imprisonment, the only question which can be entertained is whether the process by which the man was imprisoned was a legal one, not whether he is guilty or innocent of the offense; that is a question which can be tried only by a traverse jury. The whole question is whether the precept by which the man is said to be holden, and which the officer is directed to return with the body, is is the end of the inquiry. If it is a legal authority is the thing to be looked into, and that only.

The man for the offense charged, he had been seen authority. Still, my excellent friend a legal precept to hold him. If it is, there must be remanded, whether he is guilty or does not answer my question. I should like innocent; the judge has nothing to do with any Senator to get up here and show me the competent authority, if it is not legal precept | inet ministers to make arrests. That is the

from the obligation to stand his trial. That is all there is of the habeas corpus, the whole extent of its power for anything which now occurs to my mind, and I believe I have been pretty familiar with it for a great while.

The other question which the gentleman puts is, can the President imprison a man?-In regard to that, I will say that when a habeas corpus is brought before a court, on the return of the precept with the body, and the fact being shown that the habeas corpus is suspended, which is a fact the judge may not judicially know, if the judge finds that in this case it has been constitutionally suspended, that is the end of the inquiry; he does not inquire whether the President or for, there is an end to the inquiry; the suspension is of itself operative, and the judge has nothing more to say about it. That is the state of the case, as I understand.

Now, in relation to the suspension of the habeas corpus, the very fact that by the Con-stitution it may be suspended—without going now into the inquiry by whom that may be done, leaving that question just as the gentleman leaves it, not saying whether it must be done by an act of legislation or by the Executive—if the habeas corpus is suspended pursuant to the Constitution, that implies that men may be imprisoned unlawfully. It would not need a suspension of the habeas corpus to imprison a man lawfully.

If men could be imprisoned lawfully for

these political offenses, they would remain in prison even if the habeas corpus was not suspended; but the habeas corpus is suspend. Mr. Powell. I shall answer it with great ed to enable men to be imprisoned who could not otherwise be imprisoned. That is the only purpose of it. Now, I do not and everybody, in relation to matters of meum and tuum, questions between man and political subjects relating to that war or re-bellion about which the Constitution speaks. pension about which the Constitution talks.

I merely say again, that the exercise of the power of the courts in the use and suspended in relation to that subject-matter. then the court has no control or jurisdiction

Mr. Powell. I think the Senator from Vermont has not answered my question .-He has gone on to define the objects of the writ of habeas corpus; he has done it very lucidly; but my question was whether, if the writ of habeas corpus were lawfully suspended the President was authorized to make arrests. I differ from the Senator, if he will whether the process under which the prisonvery much enlarged by statute. But I know Mr. Powell. 1 am astonished that so that you have a right to a habeas corpus to good a lawyer as the Senator from Vermont bring persons before a court to be released not limited to an inquiry as to the legality of the process, but inquires as to the right

> Mr. COLLAMER. The idea that a man may be holden without process is not concausa, the great writ. It is not the habeas corpus ad satisfaciendum that we are talking the command of the writ to bring the body. with the cause of confinement.

Mr. Powell. He may be brought with the cause without bringing the process. If I had the Senator's infant son in my custody, only wish to develop the opinions of the would he not have a right to the writ of habeas corpus to inquire into the cause of the detention, and should I not then be at liberty to say that the son was apprenticed to me or to give any other good reason for holding

him? Mr. Collamer. Certainly.
Mr. Powell. That shows clearly that the question is not always whether the process is legal or not, because persons may be

held without process. Mr. Collames. By the word "process" I mean not merely technical process, but the instrument, the authority by which a person is holden, let it be what it may; and that

authority of the President or any of his Cab-